

**REMARKS**

Entry of the foregoing amendments is respectfully requested.

**Summary of Amendments**

Upon entry of the foregoing amendments, claims 93-111 are cancelled and claims 112-131 are added, whereby claims 112-131 will be pending, with claim 112 being the only independent claim.

Support for the new claims can be found throughout the present specification and the cancelled claims.

Applicants emphasize that the cancellation of claims 93-111 is without prejudice or disclaimer, and Applicants expressly reserve the right to prosecute the cancelled claims in one or more continuation and/or divisional applications.

**Summary of Office Action**

Claims 95, 98 and 100-104 are withdrawn from consideration.

Claims 105, 108 and 111 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 93 is rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Tobin et al., U.S. Patent No. 3,121,043 (hereafter "TOBIN").

Claims 93, 105, 108 and 111 are rejected under 35 U.S.C. § 103(a) as allegedly being

unpatentable over TOBIN in view of Oettel et al., US 2002/0065260 (hereafter "OETTEL").

Claim 106 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over TOBIN in view of OETTEL and further in view of Ding et al., U.S. Patent No. 6,120,536 (hereafter "DING").

Claims 107 and 109 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over TOBIN in view of OETTEL and further in view of Papathanassiu, U.S. Patent No. 6,528,489 (hereafter "PAPATHANASSIU").

Claim 110 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over TOBIN in view of OETTEL and further in view of Lintner, U.S. Patent No. 6,620,419 (hereafter "LINTNER").

Claims 93, 94, 96, 97 and 105-111 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 77-78 of co-pending Application No.10/575,878 and claims 77-78 of co-pending Application No. 10/575,882.

#### **Response to Office Action**

Reconsideration and withdrawal of the rejections of record are respectfully requested, in view of the foregoing amendments and the following remarks.

#### ***Response to Rejection under 35 U.S.C. § 112, Second Paragraph***

Claims 105, 108 and 111 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which

Applicants regard as the invention. The rejection alleges that the phrase “which is adapted for use” recited in the rejected claims renders these claims indefinite.

Applicants respectfully disagree with the Examiner in this regard. At any rate, the rejected claims are cancelled and the claims submitted herewith do not contain the phrase “which is adapted for use”, whereby this rejection is moot.

***Response to Rejections under 35 U.S.C. §§ 102(b) and 103(a)***

Claim 93 is rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by TOBIN and claims 93 and 105-111 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over TOBIN in view of OETTEL, optionally in combination with DING, PAPATHANASSIU or LINTNER.

Applicants respectfully disagree with the Examiner in this regard as well. At any rate, the rejected claims are cancelled, wherefore all of these rejections are moot.

Regarding the claims submitted herewith, Applicants note that independent claim 112 corresponds to (cancelled) dependent claim 97 which is rewritten in independent form. The fact that claim 97 is not rejected under 35 U.S.C. § 102(b) and/or 35 U.S.C. § 103(a) in the present Office Action is taken as indication that the Examiner agrees that the subject matter of claim 112 is neither anticipated nor rendered obvious by any of the cited documents. Accordingly, no further comments in this regard appear to be necessary.

Applicants further note that the compounds recited in claims 113 and 114 are (two) species of the compounds of the generic formula of claim 112, wherefore a further restriction requirement

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would not be appropriate. Additionally, method claims 123-131 are (ultimately) dependent from claim 112, wherefore they are entitled to rejoinder.

***Response to Provisional Rejections***

Claims 93, 94, 96, 97 and 105-111 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 77-78 of co-pending Application No.10/575,878 and claims 77-78 of co-pending Application No. 10/575,882.

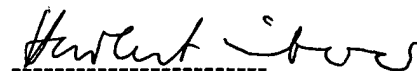
In this regard, Applicants point out that the claims of the co-pending applications have in the meantime been cancelled and replaced by claims which are directed to subject matter which doubtlessly is unable to render obvious the subject matter of any of the claims submitted herewith. Accordingly, the present provisional rejections are moot as well.

### CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Applicants further point out that a Supplemental Information Disclosure Statement is being filed concurrently herewith. Accordingly, the Examiner is respectfully requested to indicate consideration of this Supplemental Information Disclosure Statement by returning a signed and initialed copy of the FORM PTO-1448 submitted therein with the next official communication.

Respectfully submitted,  
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